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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,472	11/30/1999	DANIEL CELERIER	0143-0473-6-PCT	5980

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 02/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/402,472

Applicant(s)

CELERIER ET AL.

Examiner

Marc Jimenez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2001.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-11, 13-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-11, 13-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 8, 13, 14, 16, 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed (4,526,672) in view of Fogle et al. (2,991,551) and Olson (5,984,138).

Reed teaches an exhaust device for an internal combustion engine, comprising: a measuring transducer **10** configured to analyze a flow of exhaust gases from the engine, and a pipe element **24** adapted to carry the flow of exhaust gases from the engine, the pipe element **24** having an integral housing **32** in which the measuring transducer **10** is mounted, the housing **32** including a threaded hole extending only through a wall of the pipe element **24**.

Reed teaches the invention cited above with the exception of having a bush having an interior portion and an exterior portion, the interior portion extending further within an interior of the pipe element than the exterior portion extends beyond an exterior of the pipe element.

Fogle et al. teach a bush **34** having an interior **36** and exterior portion **34** extending beyond the pipe element **9**.

Olson teaches a bush **20** having an interior portion **46** which extends further than the exterior portion **49**.

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It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed with a bush having an interior and exterior portion extending beyond the pipe element, in light of the teachings of Fogle et al., in order to provide a strong, leak proof connection (col. 2, lines 8-9, note that this is the same problem that applicant addresses at page 2, line 18 of applicant's specification) and in order to provide a stronger structural support for the measuring transducer.

Although it is difficult to determine the length of the interior 36 and exterior 34 portions of Fogle et al. (see fig. 4-5), in view of Olson, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Fogle et al. with an interior portion which extends further than the exterior portion, in light of the teachings of Olson, in order to insert the measuring transducer further in the pipe. Official notice is taken that it is well known in the art to use tool speeds greater than 500rpms.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Fogle et al./Olson with a pipe of stainless metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

*In re Leshin*, 125 USPQ 416.

3. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Feher (3,429,171).

Reed teaches the invention cited above with the exception of having a bush with an interior portion that extends further than the exterior portion.

Feher teaches a bush **78** having an interior portion **82** extending further than the exterior portion **102**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed with a bush with an interior portion that extends further than the exterior portion, in light of the teachings of Feher, in order to provide a stronger structural support for the measuring transducer.

4. **Claims 9-11 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Fogle and Olson as applied to **Claims 8 and 13** above, and further in view of Applicant's Admitted Prior Art [AAPA] (page 2, line 4).

Reed/Fogle et al./Olson teach the invention cited above with the exception of the pipe element having a thickness between 1mm and 3mm and the pipe being made of stainless steel alloy.

[AAPA] teaches that current exhaust pipes are between 1.5 and 2mm (page 2, line 4).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Fogle et al./Olson with a pipe element that is between 1-3mm thick, in light of the teachings of [AAPA], in order to provide a pipe that is uniformly strong.

5. **Claims 9-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Feher as applied to **Claims 8** above, and further in view of [AAPA].

Reed/Feher teach the invention cited above with the exception of the pipe element having

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a thickness between 1mm and 3mm and the pipe being made of stainless steel alloy.

[AAPA] teaches that current exhaust pipes are between 1.5 and 2mm (page 2, line 4).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Feher with a pipe element that is between 1-3mm thick, in light of the teachings of [AAPA], in order to provide a pipe that is uniformly strong.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Feher/[AAPA] with a pipe of stainless metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

6. **Claims 13, 14, 16, 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Feher and Olson.

Reed teaches the invention cited above with the exception of having a bush with an interior portion that extends further than the exterior portion and forming the bush with a flow-drilling operation.

Feher teaches a bush **78** having an interior portion **82** extending further than the exterior portion **102**.

Olson teaches a flow-drilling operation (fig. 4 and 5) to form a bush **18**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention,

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to have provided the invention of Reed with a bush with an interior portion that extends further than the exterior portion, in light of the teachings of Feher, in order to provide a stronger structural support for the measuring transducer.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Feher with a flow-drilling operation to form the bush, in light of the teachings of Olson, in order to utilize a process wherein a smooth, symmetrical bush is formed.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Feher/Olson with a pipe of stainless metal alloy, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Official notice is taken that it is well known in the art to use tool speeds greater than 500rpms.

7. **Claims 15** is rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Feher and Olson as applied to **Claim 13** above, and further in view of [AAPA].

Reed/Feher/Olson teach the invention cited above with the exception of the pipe element having a thickness between 1mm and 3mm and the pipe being made of stainless steel alloy.

[AAPA] teaches that current exhaust pipes are between 1.5 and 2mm (page 2, line 4).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Reed/Feher/Olson with a pipe element that is between 1-3mm thick, in light of the teachings of [AAPA], in order to provide a pipe that is uniformly strong.

***Response to Arguments***

8. Applicant's arguments filed 9/20/2001 have been fully considered but they are not persuasive.

9. Applicant's arguments with respect to Claims 4-11, 13-16, 18, and 19 have been considered but are moot in view of the new ground(s) of rejection.

10. It is noted that Olson was relied upon in the rejections above merely for teaching the bush shape and the use of flow drilling to form the bush. The cited references already teach forming threads in the bush as noted above.

***Interviews After Final***

11. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***


13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (703) 306-5965. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5648.

  
MJ

January 29, 2002

  
S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

**Failure to take corrective action within the set period will result in ABANDONMENT of the application.**